

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

2005 NOV 29 AM 8:55

MOSES M. STEVENS,

Petitioner,

-vs-

DAVE BOBBY, Warden,

Respondent.

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Case No. 3:04-cv-157

District Judge Walter Herbert Rice  
Magistrate Judge Michael R. Merz

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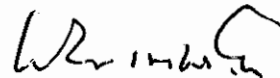
**ORDER ADOPTING REPORT AND RECOMMENDATIONS**

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The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #22), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b), which was extended once at Petitioner's request, expired on November 15, 2005, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that this habeas corpus action be dismissed on the merits. Because reasonable jurists would not disagree with this conclusion in light of *Lopez v. Wilson*, 426 F.3d 339, (6<sup>th</sup> Cir. 2005)(*en banc*), Petitioner is denied a certificate of appealability and any motion to proceed on appeal *in forma pauperis*.

November 28, 2005.



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Walter Herbert Rice  
United States District Judge